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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 JERRALD D. GAZAWAY,  
12                                      Petitioner,  
13                      v.  
14 STATE OF CALIFORNIA,  
15                                      Respondent.  
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No. 2:23-CV-0699-WBS-DMC-P

ORDER

17                      Petitioner, a state prisoner proceeding pro se, brought this petition for a writ of  
18 habeas corpus pursuant to 28 U.S.C. § 2254. Final judgment was entered on August 30, 2024.  
19 See ECF No. 43. Pending before the Court in this closed action are: (1) Petitioner's motion to  
20 amend the judgment, which has been docketed as objections, ECF No. 44; and (2) Petitioner's  
21 motion for reconsideration of the Court's June 18, 2025, order denying Petitioner's previous  
22 motion to amend the judgment, ECF No. 53.

23                      By way of background, following the Court's entry of final judgment on August  
24 30, 2024, Petitioner filed two motions challenging the judgment. The first such motion was filed  
25 on September 9, 2024, and incorrectly docketed as objections to the final judgment. See ECF  
26 No. 44. Because the filing was not docketed as a formal motion, it was not previously addressed  
27 by the Court. On January 13, 2025, Petitioner filed a second motion challenging the final  
28 judgment. See ECF No. 45. This motion was docketed as a formal motion and denied by the

1 Court on June 18, 2025. See ECF No. 47. Petitioner now seeks reconsideration of the June 18,  
2 2025, order. By this order, the Court will address both pending motions.

3 In his filing at ECF No. 44, Petitioner states that he seeks relief pursuant to  
4 Federal Rules of Civil Procedure 52(b), 59(a), and/or 59(e). See ECF No. 44, pg. 1. Rule 52(b)  
5 outlines procedures for a motion to amend or make additional findings related to a final  
6 judgment. See Fed. R. Civ. P. 52(b). While Petitioner argues that the Court's final judgment  
7 was "induced by a clearly erroneous view of the law," the Court finds no such error. Final  
8 judgment was entered in this case because Petitioner's claim that the denial of parole was not  
9 based on "some evidence" is barred. See ECF Nos. 28 (findings and recommendations) and 42  
10 (order adopting findings and recommendations). Petitioner has not pointed to any facts which  
11 would suggest that the Court's determination was clearly erroneous, either legally or factually.

12 Relief under Rule 59(a), which governs motions for a new trial, is also  
13 inapplicable in this case because no trial was held.

14 Generally, a motion to alter or amend a final judgment is appropriately brought  
15 under Federal Rule of Civil Procedure 59(e). See Backlund v. Barnhart, 778 F.2d 1386, 1388  
16 (9th Cir. 1985) (discussing reconsideration of summary judgment); see also Schroeder v.  
17 McDonald, 55 F.3d 454, 458-59 (9th Cir. 1995). Under Rule 59(e), three grounds may justify  
18 reconsideration: (1) an intervening change in controlling law; (2) the availability of new  
19 evidence; or (3) the need to correct clear error or prevent manifest injustice. See Kern-Tulare  
20 Water Dist. v. City of Bakersfield, 634 F. Supp. 656, 665 (E.D. Cal. 1986), rev'd in part on  
21 other grounds, 828 F.2d 514 (9th Cir. 1987), cert. denied, 486 U.S. 1015 (1988); see also 389  
22 Orange Street Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999); accord School Dist. No.  
23 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). As with relief under Rule 52(b), the  
24 Court finds that relief under Rule 59(e) is also unavailable for the same reasons discussed  
25 above.

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1 Finally, addressing Petitioner's motion for reconsideration of the Court's June  
2 18, 2025, order denying Petitioner's second motion to alter or amend the judgment, Petitioner  
3 argues that reconsideration is warranted because the Court erroneously denied Petitioner's  
4 second motion, in part, because it was not filed within 28 days after entry of final judgment  
5 whereas his first motion was filed within the 28-day period. See ECF No. 53. Because the  
6 Court herein addresses Petitioner's first motion to alter or amend the judgment at ECF No. 44  
7 on the merits, reconsideration of the Court's June 18, 2025, order addressing Petitioner's  
8 second and identical motion is rendered moot.

9 Accordingly, IT IS HEREBY ORDERED as follows:

10 1. Petitioner's motion to amend the August 30, 2024, final judgment, ECF  
11 No. 44, is DENIED.

12 2. Petitioner's motion for reconsideration of the June 18, 2025, order, ECF  
13 No. 53, is DENIED.

14 Dated: August 15, 2025



15 WILLIAM B. SHUBB  
16 UNITED STATES DISTRICT JUDGE  
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